

NON-PROLIFERATION TRUST II LONG-TERM FISSILE MATERIALS SAFEGUARDS AND SECURITY PROJECT

INTRODUCTION

Executive Summary

The following Agreement reflects the creative efforts of the Russian Federation, the United States of America, several organizations dedicated to worthy causes, and the environmental community in achieving historic cooperation for an effort designed to aid the non-proliferation of nuclear materials and weapons and to advance environmental restoration and other worthy causes within the Russian Federation. With appropriate approvals from the Russian and U.S. governments, the Agreement creates a legal framework whereby a special organization, established for this purpose, will cooperate with the Russian Ministry of Atomic Energy (Minatom) by providing billions of U.S. dollars for environmental restoration of contaminated weapons sites and other environmental initiatives in Russia, for economic development for nuclear cities, for Russian pensioners, for Russian invalids and orphans, for improving the security of Russian weapons usable fissile materials not retained for national security purposes, and for other worthy causes within Russia. The Agreement in no way compromises the national security of either Russia or the United States. Indeed, by safeguarding the excess fissile materials using substantial additional funds provided for that purpose, the Agreement will enhance international security and improve relations between Russia and the United States.

The special-purpose organization raises the requisite funds by providing, with Minatom's authorization, storage space within Russia for up to 10,000 metric tons of spent nuclear reactor fuel, sealed in dry casks and placed in a specially licensed, closed facility. The spent fuel would not be owned by the United States, and would have been generated in reactors located in countries other than the United States or Russia. This amount of spent fuel is less than ten-percent of the world's inventory of such material. It is comparable to the amount of spent fuel already stored in Russia, and is about one-fourth of the spent fuel stored in the United States. The Agreement recognizes that such spent fuel can be safely and securely stored in an environmentally sound manner for a term of at least 40 years.

The Agreement recognizes that the spent nuclear fuel would never be converted for weapons use or be reprocessed. Thus, the Agreement avoids the need to engage in controversial and costly production of commercial mixed-oxide fuel and attendant

additional reprocessing facilities.

In short, the Agreement represents an investment by the parties in continuing good relations between Russia and the United States, in recognition of the paramount need to secure weapons-usable materials against theft and terrorism, to provide assistance for nuclear defense workers, and to restore the environment to a safe condition.

Summary of the Project

A principal goal and objective of this Agreement is to assist the United States, Russia, and organizations within the United States and Russia, in advancing non-proliferation of nuclear weapons and safeguarding of fissile materials, in remediating environmental hazards caused by nuclear weapons programs, and for other designated worthy causes. The Agreement set forth below provides a framework whereby very substantial amounts of money (billions of U.S. dollars) will be made available within Russia for these causes. The Agreement should be read for its exact terms, which are controlling over the descriptions in this Introduction.

The Agreement involves two special organizations which are established to advance specific worthy causes which include assisting Minatom (and the U.S. Department of Energy) in safeguarding weapons-usable fissile materials. The organizations are the Non-Proliferation Trust II (NPT II) and the Minatom Development Trust (MDT). MDT is a U.S. Trust which funds projects to assist Minatom in modernizing and improving the security of its nuclear facilities, and in advancing its non-proliferation goals. NPT II is a special organization organized to perform functions under this Agreement, and is established as a _____ corporation (as opposed to a U.S. corporation) merely to minimize the U.S. taxes that might need to be paid on income derived under the Agreement, and increase the funds available for worthy causes within Russia. It is understood that all of the activities under the Agreement will be conducted pursuant to all necessary approvals from the Russian Federation and the United States.

Assuming a minimum base price of one million, five hundred thousand U.S. dollars (\$1,500,000 U.S.) per metric ton of spent fuel to be stored, the money would be paid in specified amounts generally as follows. As indicated, some funds would become available at the inception of the project while other funds would become available later. It is not intended that NPT II would retain any profits over the life of the agreement.

Not less than three billion United States dollars (\$3,000,000,000 U.S.) for the cleanup of radiologically contaminated areas within the Russian Federation, such as Lake Karachay, the Techa River, and those associated with military decommissioning programs, and for other deserving environmental initiatives within the Russian Federation.

Not less than two billion United States dollars (\$2,000,000,000 U.S.) for assistance in the development, construction, and operation of a geologic repository for Russian spent nuclear fuel and other Russian radioactive wastes, of which not less than five hundred million United States dollars (\$500,000,000 U.S.) shall be placed in a separate fund for the decommissioning of the interim storage facility, safe final disposition of the spent fuel in the geologic repository, and, if necessary, safe storage of the spent fuel beyond the initial lease and storage term.

Not less than one billion five hundred million United States dollars (\$1,500,000,000 U.S.) for improving the physical protection, control, and accounting for Russian fissile materials not needed for national security purposes.

Not less than two billion United States dollars (\$2,000,000,000 U.S.) for a general fund to create and foster within Russian nuclear cities: (a) non-nuclear industries and jobs that lessen their dependence on nuclear weapons development programs; and (b) programs for cleanup of radiologically contaminated sites, nuclear waste management, and improved safeguards for fissile materials not needed for national security purposes. Additional funds could be provided to Russian nuclear cities by their participation in the programs described above.

Not less than five hundred million United States dollars (\$500,000,000) to [organization to be named] for economic support for the region within which up to ten thousand metric tons of containerized spent nuclear fuel is stored.

Not less than two billion two hundred fifty million United States dollars (\$2,250,000,000 U.S.) to [organization to be named] for economic support for poor Russian citizens, including invalids and pensioners, of which not less than two hundred fifty million dollars (\$250,000,000) shall be for Russian orphans and orphanages.

The funds would be generated by a project under the Agreement whereby Minatom would make available space for commercial storage of up to 10,000 metric tons of aged foreign nuclear reactor spent fuel in a state-of-the-art dry cask storage facility, similar to those now in use in the United States and Europe. The spent fuel would be generated in reactors located outside of Russia or the United States. NPT II would construct and operate the facility, with the assistance of contractors with demonstrated experience and expertise. If necessary, Minatom would also be responsible for final disposition of the spent fuel, and substantial additional funds would be provided for this purpose. Under the Agreement, the spent fuel would never be reprocessed or converted for weapons use.

Many countries around the world embarked upon nuclear power programs. These programs continue to this day. All nuclear reactors require nuclear fuel. However, after

the nuclear fuel is burned in a reactor, it becomes used or spent and is highly radioactive. The spent fuel then must be safely stored, and, whether or not it is reprocessed, the radioactive fission products which result from reactor operation must eventually be disposed of safely as discarded spent fuel or high-level radioactive waste. Several countries are pursuing programs for the permanent disposal of spent fuel and high-level radioactive waste in deep geologic formations, but pending the successful completion of these programs, the spent fuel must continue to be safely stored. Reactor operators are running out of storage space, and are searching for additional space for safe storage. Russian expertise and capability for spent fuel storage would be made available under the Agreement to foreign nuclear utilities to meet their needs for up to 10,000 metric tons of such spent fuel, and in return the very substantial funds paid for this service would be made available to Russia for many of its needs.

To enhance the credibility of the transactions under the Agreement, the funds would be received and then disbursed by NPT II through qualified third-party entities, subject to audit and verification.

Environmental Protection and Other Benefits

The spent fuel would be stored in accordance with Russian and International Atomic Energy Agency safety requirements and the storage facility would be reviewed by Gosatomnadzor (GAN), the Russian equivalent to the U.S. Nuclear Regulatory Commission (NRC). The safety of the facility would also be certified by a qualified independent U.S. entity as conforming generally to NRC safety and security standards for a spent fuel storage facility. The well-developed technology of dry storage is simple, and depends totally on passive safety systems. Dry storage casks, approved for use in Russia, Western Europe and the United States, would be used. These safety systems can store the spent fuel safely for well over 40 years (the expected storage duration) and for many decades beyond. The storage would be as safe as storage of similar spent fuel in the United States, Europe, and Japan.

Scientific entities worldwide, including the U.S. Department of Energy, the NRC, and the U.S. National Academy of Sciences, all have concluded that nuclear power reactor spent fuel can be safely disposed of in deep geologic formations. The Agreement offers one billion, five hundred million U.S. dollars (\$1,500,000,000 U.S.) to assist Russian entities in the development, construction, and operation of a repository in Russia for disposal of high-level radioactive waste and spent nuclear fuel. In addition, under the Agreement, a trust fund of five hundred million U.S. dollars (\$500,000,000 U.S.) will be established primarily to insure safe storage and eventual decommissioning of the storage facility and disposition of the spent fuel covered by the Agreement at an appropriate time in the future. An additional three hundred million U.S. dollars (\$300,000,000 U.S.) would be provided for the selection and qualification of the geologic repository site.

As listed above, to further compensate Russia for facilitating storage of the up to 10,000 metric tons of foreign spent nuclear fuel, the Agreement provides for near-term, concrete environmental benefits to Russia. These include the funding of over three billion U.S. dollars (\$3,000,000,000 U.S.) for Russian radiological cleanup, and other environmental initiatives selected under the Agreement, two billion U.S. dollars (\$2,000,000,000 U.S.) for Russian nuclear cities economic development and other related causes, and two billion, two hundred fifty million U.S. dollars (\$2,250,000,000 U.S.) for poor Russian citizens, including invalids and orphans, and orphanages and pensioners. In addition, the Agreement provides for at least one billion, five hundred million U.S. dollars (\$1,500,000,000 U.S.) for improving the physical protection, control, and accounting for Russian plutonium and (if agreed) other Russian fissile materials not needed for national security purposes. Economic support (five hundred million U.S. dollars (\$500,000,000 U.S.)) would also be provided for the region within which the storage facility would be located. In sum, the Agreement would result in a large net benefit to Russian citizens and the environment in Russia.

The improved safeguarding of the excess fissile materials would *not diminish Russia's national security in any way*. Russia already has declared or would need to declare that these materials will not be used in the future for weapons purposes, and Russia has other ample supplies.

Finally, the Agreement would establish a workable framework whereby Russia, the United States, nuclear utilities, and environmental organizations could cooperate to achieve other worthwhile ends especially for the advancement of nuclear safety and security, the protection of the environment, and the promotion of sound economies.

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PROJECT AGREEMENT

AGREEMENT made this _____ day of _____, 1999, by and between the Ministry of Atomic Energy of the Russian Federation (Minatom), with offices at Bolshaya Ordynka, 24/26, Moscow 10100, Russian Federation, and Non-Proliferation Trust II (NPT II), a _____ corporation with offices at _____, and United States of America offices at 1500 K Street, N.W., Suite 200, Washington, D.C. 20005 (collectively, the parties).

WHEREAS, both the United States of America (United States or U.S.) and the Russian Federation (Russia) possess stocks of excess plutonium from their respective nuclear weapons programs which they no longer need for weapons purposes and desire to secure and safeguard in the spirit of cooperation with each other and for the benefit of all humanity; and

WHEREAS, both the United States and Russia, and the parties in entering into this agreement, count among their basic goals the desire to minimize stocks of separated weapons-usable plutonium and to improve the physical security and control of this and other fissile materials in order to minimize the risks of theft and diversion to unauthorized parties; and

WHEREAS, up to 50 metric tons of weapons plutonium in Russia, currently in the custody and under the control of the Ministry of Atomic Energy of the Russian Federation (Minatom), has, by agreement between Russia and the United States, been declared to be in excess of national security needs (Excess Plutonium or excess material) and additional amounts may be declared excess in the future; and

WHEREAS, Russia is interested in showing how its institutions can be flexible in fostering innovative projects which benefit all humanity; and

WHEREAS, NPT II is a corporation chartered with fostering non-proliferation efforts, and environmental and other worthy causes within Russian, and facilitating private-sector involvement in projects intended to assist with and raise funds for such efforts; and

WHEREAS, the Minatom Development Trust (MDT), a U.S. (Delaware) trust, funds projects which will assist Minatom in modernizing and improving the security of its nuclear facilities and advancing its non-proliferation goals; and

WHEREAS, *[add descriptions of other organizations designated under Paragraph No. 6(A)]*; and

WHEREAS, Minatom manages and operates various nuclear facilities, and

controls various nuclear materials and sites, within Russia, dedicated to nuclear uses; and

WHEREAS, NPT II can raise monies to pay for the assistance to Minatom in improving the security of excess Russian fissile materials, and for other worthy causes designated herein, by safely storing up to 10,000 metric tons (heavy metal) of spent nuclear reactor fuel in the form of containerized fuel assemblies, from utilities outside Russia and the United States, in dry casks at a facility to be constructed at a site selected by Minatom (the Spent Fuel Storage Site); and

WHEREAS, Minatom desires to provide NPT II, by lease, sufficient space at the Spent Fuel Storage Site for NPT II to construct and operate a dry cask storage facility to safely and securely store up to 10,000 metric tons (and no more) of such spent nuclear reactor fuel; and

WHEREAS, the generators of such spent nuclear reactor fuel desire that it be removed by NPT II from their reactor sites and safely stored in dry casks by NPT II at the Spent Fuel Storage Site designated by Minatom and are willing to provide NPT II with substantial funds for that purpose; and

WHEREAS, at Minatom's request, NPT II will require from its customers at least one million, five hundred thousand U.S. dollars (\$1,500,000 U.S.) per metric ton (heavy metal) of spent nuclear reactor fuel; and

WHEREAS, assuming a price of one million, five hundred thousand U.S. dollars (\$1,500,000 U.S.) per metric ton of spent fuel from such generators, and all the 10,000 metric tons are stored, the total project revenues would be fifteen billion U.S. dollars (\$15,000,000,000 U.S.), of which three billion, seven hundred-fifty thousand U.S. dollars (\$3,750,000,000 U.S.) would be reserved by NPT II to pay for the manufacture of containers and casks; for the delivery, loading, transport by roadways, railways, or by sea, and unloading of the casks and containers; for the safe design, construction and operation of the Spent Fuel Storage Facility; for assistance in geologic repository site selection and qualification; and for related operating, and management expenses; and

WHEREAS, Minatom agrees that such containerized spent nuclear reactor fuel from outside of Russia and the U.S. can be safely transported to and stored, with appropriate precautions, at the Spent Fuel Storage Site without endangering public health and safety or jeopardizing the environment or Russian national security interests and that the assistance in geologic repository site selection, qualification, construction, and operation is sufficient in relation to the 10,000 metric tons of spent fuel, should it be disposed in Russia; and

WHEREAS, for humanitarian reasons, Minatom has requested and NPT II has agreed to dedicate a portion of the payments for the cleanup of certain radiologically

contaminated sites and other environmental initiatives in Russia, for the benefit of Russian nuclear cities, for the benefit of Russian pensioners and orphans, and for other worthy causes in Russia; and

WHEREAS, the terms of this Agreement have been fully disclosed to the appropriate government agencies within the United States and Russia, and all necessary government authorizations have been or will be obtained; and

NOW, THEREFORE, in consideration of the mutual promises contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree to the following binding commitments:

I. Concessions and Authorizations

1. Minatom will promptly seek all appropriate concessions, authorizations, and approvals from the Russian government that are necessary to effectuate the terms of this Agreement, except for the license referred to in Paragraph No. 18. In addition, Minatom will timely seek to have Russian laws amended or reasonably construed in such manner that they do not prohibit NPT II from accomplishing the receipt, transportation, interim storage, or arranging for final disposition within Russia of the spent nuclear fuel within the scope of this Agreement. Also, to the extent necessary, Minatom will timely seek and support any further measures that may be needed so that Russia has the administrative and technical abilities, and adequate regulatory infrastructure, for management and disposal of radioactive wastes within the framework of international standards, as such wastes may be received, managed, and disposed under this Agreement.
2. NPT II will promptly seek any appropriate approvals and authorizations from the United States government (*e.g.*, U.S. State Department authorizations) that are necessary to effectuate the terms of this Agreement. In addition, NPT II will timely seek any and all appropriate approvals and authorizations from the government(s) of any nation from which spent fuel destined for the Spent Fuel Storage Site is to originate or be transferred through, or from Euratom if such spent fuel originates from within a Euratom member nation.
3. The parties agree that operation of this Agreement is contingent upon the obtaining and continued effectiveness of the approvals described in Paragraph Nos. 1 and 2 above, if and whenever required.
4. The parties further agree that, to the maximum extent possible, they will seek to ensure that this Agreement operates in a manner that is consistent with the objectives of any bilateral agreement between Russia and the United States concerning disposition in either country of Excess Plutonium and/or other excess

fissile materials. The parties in good faith will seek such further assurances and/or modifications of this Agreement as may be required to achieve such consistency.

5. The parties recognize that, to minimize taxes and maximize the funds available to serve the worthy purposes of this Agreement, some or all of the functions, duties, or rights described in the Agreement may, after consultation with Minatom, need to be assigned to or performed by one or more additional entities, chartered to perform worthy causes essentially identical to those of NPT II and MDT.

II. Disposition of Funds Raised

6. (A) *Payments for the Benefit of Russian Causes.* In return for granting NPT II the rights and privileges specified in this Agreement, and assuming the full 10,000 metric tons are sold at a price of one million, five hundred thousand U.S. dollars (\$1,500,000 U.S.) per metric ton, Minatom has requested, and NPT II will pay a gross value of eleven billion, two hundred fifty million U.S. dollars (\$11,250,000,000 U.S.) subject to taxes (if any) and to the conditions herein as set forth below. The funds to be provided under this Paragraph No. 6(A)(1)-(6) will be received as spent fuel storage revenues by NPT II, and deposited by NPT II in one or more accounts managed by professional trust or account managers selected by NPT II, at its sole discretion. The funds will be disbursed from the account(s) only with the approval of the entities designated below, on a project basis. Funds for the causes described below may be paid for the benefit of Russian causes in United States dollars or other appropriate currency, at NPT II and/or the entities discretion. Each of the entities listed in subparagraphs (1) through (6) below may, by agreement with NPT II, reserve no more than ten-percent (10%) of the amounts specified for reasonable overhead, project management fees and expenses, and administrative expenses.
 - (1) Not less than three billion United States dollars (\$3,000,000,000 U.S.) for the cleanup of radiologically contaminated areas within the Russian Federation, such as Lake Karachay, the Techa River, and those associated with military decommissioning programs, and for other deserving environmental initiatives within the Russian Federation. The [MDT or other organization to be designated by NPT II] must approve and authorize the funding for individual projects after consultation with Minatom. To the extent practical, the work will be performed by Minatom employees, or by other entities agreed to by Minatom and [MDT or other organization to be designated by NPT II]. Not less than three hundred million U.S. dollars (\$300,000,000 U.S.) of this amount will be paid to the fund account within 30 days of the Project Start Date, as defined herein, and the remainder will be paid as revenues are received, pursuant to an agreement to be entered

into between NPT II and [MDT or other organization to be designated by NPT II].

- (2) Not less than one billion five hundred million United States dollars (\$1,500,000,000 U.S.) for assistance in the development, construction, and operation of a geologic repository for Russian spent nuclear fuel and other Russian radioactive wastes, including spent fuel stored under this Agreement. [MDT or other organization to be designated by NPT II] must approve and authorize the funding for individual projects after consultation with Minatom. To the extent practical, the work will be performed by Minatom employees, or by other entities agreed to by Minatom and [MDT or other organization to be designated by NPT II]. Not less than one hundred fifty million U.S. dollars (\$150,000,000 U.S.) of this amount will be paid to the fund account within 30 days of the Project Start Date as defined herein, and the remainder of the money will be paid as revenues are received, pursuant to an agreement to be entered into between NPT II and [organization].

An additional five hundred million United States dollars (\$500,000,000 U.S.) shall be placed in a separate fund for the decommissioning of the interim storage facility, safe final disposition of the spent fuel in the geologic repository, and, if necessary, safe storage of the spent fuel beyond the initial lease and storage term (Spent Fuel Decommissioning and Disposition Fund). Expenditures from the Spent Fuel Decommissioning and Disposition Fund must be approved by that Fund's trustee unless Minatom takes permanent title, possession, custody, and responsibility for the spent fuel, in which case the Fund, including interest and earnings thereon, will be transferred to Minatom in accordance with Paragraph No. 29. Payments will be made to the Spent Fuel Decommissioning and Disposition Fund as spent fuel is accepted by NPT II at the Spent Fuel Storage Site, at \$50,000 per ton, within 30 days of acceptance by NPT II at the Site.

- (3) Not less than one billion five hundred million United States dollars (\$1,500,000,000 U.S.) for improving the physical protection, control, and accounting for Russian fissile materials not needed for national security purposes. MDT would approve and authorize the funding for individual projects, after consultation with Minatom. To the extent practical, the work will be performed by Minatom employees, or by other entities agreed to by Minatom and MDT. Not less than one hundred fifty million U.S. dollars (\$150,000,000 U.S.) of this amount will be paid to the fund account within 30 days of the Project Start Date, as defined herein, and the remainder will be paid as revenues are received pursuant to an agreement to be entered into

between NPT II and MDT.

- (4) Not less than two billion United States dollars (\$2,000,000,000 U.S.) for a general fund to create and foster within Russian nuclear cities: (a) non-nuclear industries and jobs that lessen their dependence on nuclear weapons development programs; and (b) programs for cleanup of radiologically contaminated sites, nuclear waste management, and improved safeguards for fissile materials not needed for national security purposes. Additional funds could be provided to Russian nuclear cities by their participation in the programs funded under sections (1) through (3) above. MDT must approve and authorize the funding for individual projects, after consultation with Minatom. To the extent practical, the work will be performed by Minatom employees, or by other entities agreed to by Minatom and MDT. Not less than two hundred million U.S. dollars (\$200,000,000 U.S.) of this amount will be paid to the fund account within 30 days of the Project Start Date, as defined herein, and the remainder will be paid as revenues are received pursuant to an agreement to be entered into between NPT II and MDT.
- (5) Not less than five hundred million United States dollars (\$500,000,000) to for economic support for the region within which up to ten thousand metric tons of containerized spent nuclear fuel is stored. [Organization to be designated by NPT II] must approve and authorize the funding for individual projects. Not less than fifty million U.S. dollars (\$50,000,000 U.S.) of this amount will be paid to the fund account within 30 days of the Project Start Date, as defined herein, and the remainder will be paid as revenues are received pursuant to an agreement to be entered into between NPT and [organization to be designated by NPT II].
- (6) Not less than two billion two hundred fifty million United States dollars (\$2,250,000,000 U.S.) to [organization to be designated by NPT II] for economic support for poor Russian citizens, including invalids and pensioners, of which not less than two hundred fifty million dollars (\$250,000,000) shall be for Russian orphans and orphanages. [Organization to be designated by NPT II] must approve and authorize the funding for individual projects. Not less than two hundred twenty-five million U.S. dollars (\$225,000,000 U.S.) will be paid to the fund account within 30 days of the Project Start Date as defined herein, of which twenty-five million U.S. dollars (\$25,000,000 U.S.) Shall be for Russian orphans and orphanages. The remainder will be paid to the fund account as revenues are received, pursuant to an agreement to be entered into between NPT II and [organization].

- (B) Reserved for NPT II. NPT II will incur expenses in carrying out this Agreement. Expenses for the purposes discussed below will not exceed three billion, seven hundred fifty million U.S. dollars (\$3,750,000,000 U.S.). NPT II anticipates these expenses will be as follows:
- (1) No more than six hundred million U.S. dollars (\$600,000,000 U.S.) for NPT II management and operations, including procurement, marketing, administrative expenses, and safe operation of the spent fuel storage facility (40-year term, subject to renewal).
 - (2) No more than two billion U.S. dollars (\$2,000,000,000 U.S.) for container supply and distribution, loading and unloading.
 - (3) No more than three hundred million U.S. dollars (\$300,000,000 U.S.) for the design, construction, and licensing of the interim storage facility.
 - (4) No more than three hundred million U.S. dollars (\$300,000,000 U.S.) for construction and operation of specialized vessels for transportation of the spent nuclear fuel by sea, and other spent nuclear fuel transportation needs.
 - (5) No more than two hundred fifty million U.S. dollars (\$250,000,000 U.S.) for contingencies, including any funds needed above the amounts and for the purposes specified in Paragraph Nos. 6(B)(1)-(4) above.
 - (6) Three hundred million U.S. dollars (\$300,000,000 U.S.) for Minatom for the selection and qualification of a geologic repository site, to be paid to the fund account within 30 days of the Project Start Date as defined herein.
- (C) Additional Funds Raised By NPT II. Funds raised by NPT II for the disposition of the 10,000 metric tons of spent nuclear fuel described herein that exceed one million, five hundred thousand U.S. dollars (\$1,500,000 U.S.) per metric ton, and funds reserved by NPT II in accordance with Paragraph Nos. 6(B)(1)-(5) above which, at the end of the Lease Agreement (see below), have not been needed for the purposes herein designated, will be disbursed in the following manner:
- 20 percent for each of the five programs listed in Paragraph Nos. 6(A)(1)-(5) above, subject to the conditions of those paragraphs.
- (D) Profits. The parties desire and agree that, over the life of this Agreement, NPT II will not retain any profits derived under this Agreement.

7. (A) The parties agree that no excess fissile materials, which are the subject of

improved physical protection, control, and accounting funded under Paragraph No. 6(A)(3), will be used, held in reserve, or reconstituted for weapons or nuclear explosive use. The parties further agree that none of the funds provided under Paragraph No. 6 will be used for nuclear weapons or nuclear explosive use, research, or development; or for the separation of any weapon-usable fissile material; or, except as may be necessary to improve physical protection, control, and accounting, for chemical separation or other processing or alteration of any fissile materials.

- (B) The parties agree that, subject to Paragraph No. 7(A), there are current options for disposition of excess plutonium fissile materials which could prove to be feasible and further research and development may reveal other superior options. It is the parties expectations that at some future time they will, in cooperation with the governments of Russia and the United States, agree on a final disposition option selected for the excess plutonium. Any final disposition will be subject to the approval of the governments of the United States and Russia.

III. Spent Fuel Storage Site Lease Agreement

8. In order for NPT II to be able to pay the funds and meet the expenses described above, within ninety (90) days of the date hereof, Minatom and NPT II will execute a binding lease agreement under which Minatom will provide NPT II with sufficient storage space for dry cask storage by NPT II, at a site to be selected by Minatom, of up to 10,000 metric tons of containerized spent nuclear fuel generated in reactors located outside of the United States and Russia. Such agreement will be referred to in this Agreement as the Spent Fuel Storage Site Lease Agreement.
9. Minatom authorizes NPT II or its designee to use the leased storage space at the designated site for the dry cask storage of foreign-origin spent nuclear reactor fuel, subject to the conditions herein.
10. In the Spent Fuel Storage Site Lease Agreement, Minatom will elect whether such dry storage will occur in an above-ground storage facility, or within a dedicated portion of an existing underground facility. The storage space provided by Minatom will be no less than one square kilometer if storage is to be above ground. If Minatom elects underground storage, such storage space will be sufficient to permit the safe, secure, and efficient operation of a dry cask spent fuel storage facility by NPT II or its designee. In either case, such storage facility will be referred to in this Agreement as the Spent Fuel Storage Facility.
11. The initial term of such Spent Fuel Storage Site Lease Agreement will be for 40 years from the date the Spent Fuel Storage Facility is declared operational by NPT

II following any necessary license issuance by the Russian nuclear licensing agency Gosatomnadzor (GAN).

12. Subject to the provisions of this Agreement, the Spent Fuel Storage Site Lease Agreement will authorize NPT II:
 - (A) To contract with a project manager of NPT II s choosing, for the preparation of a license application and for the design and construction of the Spent Fuel Storage Facility, as described in Sections V and VI below;
 - (B) To contract with a qualified third party of NPT II s choosing for the operation of the Spent Fuel Storage Facility during the term of the lease; and
 - (C) To have unrestricted access to the Spent Fuel Storage Facility, it's physical contents, and its books and records, during the term of the lease.
13. The Spent Fuel Storage Site Lease Agreement will require the Spent Fuel Storage Facility, and all nuclear materials within it, to be subject to access, appropriate safeguards, and inspection by the International Atomic Energy Agency (IAEA) under the Voluntary Safeguards Agreement between Russia and the IAEA, by the countries from which the fuel originated or within which the fuel was irradiated, and by other parties as may be required by NPT II s customers, and as may be required by law.
14. The Spent Fuel Storage Site Lease Agreement will require the Spent Fuel Storage Facility to be designed, constructed, and operated in accordance with the applicable regulations of GAN and any applicable safety and security standards of the IAEA.

IV. Project Start Date

15. Upon obtaining the authorizations described in Paragraph Nos. 1 and 2 above, upon receipt of written commitments (with appropriate contingencies) totaling no less than fifteen billion U.S. dollars (\$15,000,000,000 U.S.), and upon receipt of down payments to NPT II of no less than three billion U.S. dollars (\$3,000,000,000 U.S.) from spent fuel customers, NPT II will notify Minatom in writing. The date of Minatom s receipt of such notice will be referred to as the Project Start Date. NPT II s failure to satisfy the terms of this provision within one year from the date hereof will constitute grounds for termination of this Agreement, at NPT II s option, with no further obligations of either party to the other.

V. Spent Fuel Storage Facility License and Design

16. As soon as practicable following execution of the Spent Fuel Storage Site Lease Agreement, NPT II will contract with a qualified project manager of its choosing to manage the preparation of the license application, design, and manage the construction for the Spent Fuel Storage Facility, on a turnkey basis, for an amount not to exceed three hundred million U.S. dollars (\$300,000,000 U.S.), payable in appropriate progress payments. Such contract will provide that no less than 75-percent of the total project work scope or monies for such facility (up to \$225,000,000 U.S.) will go to Minatom. At its election, Minatom and/or the project manager may subcontract with any other qualified entity for assistance with such application, design, and/or construction, provided that NPT II will have the right of approval over any subcontractor of the project manager.
17. The designated project manager, in consultation with Minatom, will cause to be prepared a comprehensive license application for the Spent Fuel Storage Facility. Such application will upon submission meet all applicable Russian laws and regulations for storage of commercial spent nuclear fuel in Russia, any applicable safety or security requirements of the IAEA, and the requirements and specifications of NPT II. Moreover, prior to any receipt of spent nuclear fuel at the Spent Fuel Storage Facility, NPT II at its expense will provide Minatom with certification, by a qualified United States national laboratory or a qualified United States independent private consultant with experience in spent fuel storage facility licensing, that the Spent Fuel Storage Facility provides at least that level of safety generally required in the regulations of the U.S. Nuclear Regulatory Commission at Title 10 of the Code of Federal Regulations, Part 72, for independent spent fuel storage facilities.
18. NPT II will submit such application upon its completion to GAN, together with one million U.S. dollars (\$1,000,000 U.S.) from NPT II as the appropriate and applicable one-time non-refundable license application and licensing fee to GAN for purposes of processing the independent review of the application and the licensing of the facility for construction and operation.

VI. Construction of Spent Fuel Storage Facility

19. Construction of the Spent Fuel Storage Facility will not begin unless and until the license application described above has been approved by GAN, although limited activities may be performed at the site upon the prior authorization of GAN and Minatom.
20. Minatom will ensure that the appropriate and necessary appurtenances for construction and operation of the Spent Fuel Storage Facility are timely provided

to the facility, including (without limitation to) port, rail, and road access, electricity, sewage, and water.

21. Upon license issuance, the Spent Fuel Storage Facility will be constructed in a timely manner at the Spent Fuel Storage Site. Such facility will be designed and constructed in accordance with the license and the reasonable specifications of NPT II and will be based to the maximum extent practicable on the design of the existing spent fuel storage facility owned and operated by Gesellschaft für Nuklear-Service mbH (GNS) in Auhaus, Germany, appropriately adjusted for site-specific differences. To the maximum extent practicable, the facility should be constructed and qualified to accept and store spent fuel within eighteen months of construction license issuance.

VII. Delivery of Spent Fuel

22. Upon execution of this Agreement, NPT II will endeavor in good faith, and using its best efforts, to contract with nuclear utility customers outside of Russia and the United States, at NPT II's sole election and expense, for the provision of up to 10,000 metric tons of spent nuclear fuel to be delivered for storage to the Spent Fuel Storage Facility. Such contracts will be contingent on issuance of any further licenses and authorizations that may be necessary for receipt and storage of spent nuclear fuel at the Spent Fuel Storage Facility and conformance with any license conditions, and will provide for NPT II to take title to such spent nuclear fuel upon its acceptance by the carrier for shipment from the site where the fuel was stored previously, but no later than the point where the spent fuel leaves the jurisdiction of the country of such storage. Such title in NPT II may need to be contingent on the spent fuel satisfying spent fuel acceptance requirements as specified in the Spent Fuel Storage Facility license. Such contracts will, in addition, relieve the providers of such spent nuclear fuel, once it has been delivered and accepted at the Spent Fuel Storage Facility, from any future obligation or responsibility concerning the spent fuel to the maximum extent authorized by law.
23. At its sole expense, NPT II will make or cause to be made available, for purposes of implementing the Spent Fuel Storage Site Lease Agreement, and beginning three years within the Project Start Date, or at such other time as may be consistent with the status of the Spent Fuel Storage Facility and customer needs, sufficient spent fuel storage casks and canisters or containers for the safe and secure transport, and the safe and secure long-term storage at the Spent Fuel Storage Facility, of up to 10,000 metric tons of spent nuclear fuel. Such casks and canisters or containers, to be used for transport and/or dry cask storage, will meet all applicable transport requirements of the IAEA, GAN, and the transport regulations of any nation through which such casks or containers are to move the spent fuel, and the applicable requirements of the International Maritime

Organization for any oceanic transport. NPT II will coordinate the design, production, and delivery of such casks and canisters or containers with Minatom, and such casks and canisters or containers must meet the safety and security requirements applicable to the Spent Fuel Storage Facility.

24. NPT II will at its sole expense arrange for the safe and secure transport of such spent nuclear fuel to the Spent Fuel Storage Facility. Minatom will assist NPT II in a timely manner in facilitating and arranging for such transport within Russia, and will specify the transport routes to be used within Russia. If transport is unavailable in Russia for the movement of spent nuclear fuel; NPT II may at its election terminate this Agreement with no further obligations on its part.

VIII. Operation of Spent Fuel Storage Facility

25. NPT II or its designee will operate and maintain the Spent Fuel Storage Facility in accordance with the license and all applicable standards and regulations of GAN, and that level of safety and security as provided for in Paragraph No. 17 herein.

IX. Disposition of Spent Fuel at End of Lease

26. Financing of the Spent Fuel Storage Facility decommissioning and disposition of the spent fuel is addressed in part in Paragraph No. 6(A)(2) above.
27. The parties may, at their election and with the prior approval of their respective governments, renew the Spent Fuel Storage Site Lease Agreement. Renewal will not affect Minatom's obligations for decommissioning of the Spent Fuel Storage Facility and final disposition of the spent fuel, as provided in Paragraph Nos. 28 and 29.
28. Upon expiration of the Spent Fuel Storage Site Lease Agreement and any renewal term of that agreement, NPT II, in addition to other lawful and appropriate options and after notice and consultation with the appropriate U.S. agencies, will have the specific options to:
- (A) Remove the spent fuel from the Spent Fuel Storage Facility and transfer it to another duly authorized location; or
 - (B) Transfer title, possession, and custody of the spent fuel, canisters, and casks to Minatom.
29. If NPT II in its sole discretion elects option (B) in Paragraph No. 28, Minatom agrees to accept permanent title, possession, and custody to the spent nuclear fuel, canisters, and casts, and to assume all responsibility for any further storage of the

spent fuel, for final disposition of the spent fuel, and for decommissioning of the Spent Fuel Storage Facility. The funds held in the Spent Fuel Decommissioning and Disposition Fund pursuant to Paragraph No. 6(A)(2) (\$500,000,000 U.S.), together with accrued interest and earnings thereon, will be transferred to Minatom; provided, however, that Minatom provides written assurance to MDT that such funds will be used for the safe decommissioning of the Spent Fuel Storage Facility, safe management of the spent fuel, and safe operation (and if necessary development) of a geologic repository for Russian high-level radioactive waste and spent fuel (including up to 10,000 metric tons of spent fuel referred to in this Agreement). No remaining obligation will exist for NPT II concerning such spent fuel; and Minatom will indemnify and hold NPT II and its customers, officers, employees, contractors, and subcontractors harmless from any and all liability associated with the prior transportation to and storage of the spent fuel at the Spent Fuel Storage Facility.

If NPT II elects in its sole discretion option (A) in Paragraph No. 28, the parties agree that all monies in the Spent Fuel Decommissioning and Disposition Fund described in Paragraph No. 6(A)(2) and this paragraph will be payable by the trustee to NPT II for ultimate disposition of the spent nuclear fuel, for decommissioning of the Spent Fuel Storage Facility or any successor facility and, if NPT II funds for the safe operation and storage facility are exhausted, for additional safe and secure storage of the spent fuel. Minatom agrees to assist NPT II in facilitating the transport of the spent fuel as NPT II at its sole expense may require.

The parties agree that the spent fuel stored hereunder at the Spent Fuel Storage Site (and at any time and wherever it may be stored or disposed of in Russia) will never be used, held in reserve, or processed for nuclear weapons or nuclear explosive use, and will never be processed for its plutonium or uranium content or for any other reason unless Minatom, NPT II, and the governments of both parties approve.

X. Third-Party Nuclear Liability

30. During the terms of the Spent Fuel Storage Site Lease Agreement, NPT II will endeavor to secure, at its expense, on reasonable terms and conditions, third-party nuclear liability and property insurance for the Spent Fuel Storage Facility and for any other activity carried out pursuant to the agreement. To the extent NPT II may incur any liability as a result its activities under this Agreement which are not covered by insurance, and funds are not available for payment under Paragraph 6(B)(5), NPT II may use any funds otherwise payable pursuant to Paragraph Nos. 6(A) or 6(C), on a *pro rata* basis.

XI. Governing Law

31. This Agreement is binding upon the parties, and its making, construction, interpretation, and enforcement will be governed by the laws of the State of Delaware, United States of America, and, to the extent applicable, United States federal law.

XII. Severability

32. If any provision of this Agreement is determined to be void, contrary to law, or incapable of implementation for legal or regulatory reasons beyond the control of either party, such provision will be struck from the Agreement, and the Agreement will continue in full force and effectiveness without the struck provision, unless modified upon the mutual agreement of the parties.

XIII. Termination

33. Either party may terminate this Agreement upon written notice to the other if the general terms are not approved or authorized by their respective governments.

XIV. Remedies for Breach

34. The parties agree that any dispute concerning this Agreement shall first be brought by the complaining party to the attention of the other in writing, and such other party shall be given an opportunity to cure any defect in performance of no less than thirty days. Upon failure to cure within such period, the parties agree voluntarily to submit their dispute, within thirty days of such failure to cure, to mediation in Geneva, Switzerland, before a neutral mediator chosen by consent of both parties. Failure by the parties to reach agreement with such mediator within thirty days of the date of submission of the dispute to mediation will entitle the complaining party to sue the other in a court of competent jurisdiction. The costs and fees of the mediator will be shared equally by the parties, and each party will pay its own attorneys fees and costs.
35. The parties agree that any breach or attempted breach of any of the provisions of this Agreement could result in irreparable injury to either party for which there would be no adequate remedy at law. Accordingly, the parties agree that if either should breach or attempt to breach any of the provisions of this Agreement, the other may seek through process of law to enjoin the offending party from further breaches or attempted breaches hereof, or to compel such party's compliance with such provisions by specific performance, in addition to any other remedies available in equity or at law. If a court of competent jurisdiction determines that

such party has breached, or attempted to breach, any of the provisions of this Agreement, such party will consent to the granting in such proceeding of an injunction restraining it from further breaches of, or compelling its compliance by specific performance with, such provisions, and such party will pay all costs and expenses, including (without limitation to) court costs and the reasonable attorneys fees incurred by the other in enforcing the obligations contained herein.

XV. Notices

36. Any and all notices, consents or other communications provided for herein will be given in writing and personally delivered or sent by registered, certified, or express delivery, and will be deemed delivered upon receipt. The following are the persons for each party to which notices will be given:

For NPT II:

Adm. Daniel J. Murphy, USN (Ret.)
Executive Chairman
Non-Proliferation Trust II

Telephone: _____

Facsimile: _____

For Minatom:

RUSSIAN FEDERATION

Telephone: _____

Facsimile: _____

XVI. Binding Effect

37. This Agreement will inure to the benefit of and be binding upon NPT II and [INSERT NAME], and their respective successors and assigns, but neither this Agreement nor any right or obligation hereunder is assignable without the other party's consent, which consent shall not be unreasonably withheld.

XVII. Complete Agreement, Amendment, and Waiver

38. The parties acknowledge that this Agreement sets forth the entire agreement and understanding of the parties as to the subject matter hereof. There are no representations, agreements, arrangements or undertakings, oral or written, between the parties relating to the subject matter of this Agreement which are not fully expressed in this Agreement. This Agreement may not be amended or modified except upon mutual consent in writing by the parties. No provision of this Agreement shall be deemed waived, unless such waiver is in writing and signed by the party against whom the waiver is sought to be enforced. Any waiver by either party of a breach of any provision of this Agreement shall not operate as or be construed as a waiver of any other breach of such provision or of any breach of any other provision of this Agreement. The failure by a party to insist upon strict adherence to any term of this Agreement on one or more occasions shall not be considered a waiver or deprive that party of the right thereafter to insist upon strict adherence to that term or any other term of this Agreement.

XVIII. Further Assurances

39. The parties agree in good faith to timely undertake, implement, and execute such measures and further assurances as may be required to effectuate the purposes, intents, and provisions of this Agreement.
40. During the term hereof, the parties agree not to undertake new commercial reprocessing activities or enter into agreements with third parties that would act to undermine the basic goals and objectives of this Agreement.

XIX. Foreign Corrupt Practices Act

41. The parties to this Agreement mutually agree that all activities undertaken in the performance thereof or on behalf of each party or its affiliates shall be in full compliance with the laws of Russia and the United States of America, and, specifically, with the United States Foreign Corrupt Practices Act of 1977, as amended, 91 Stat. 1494 *et seq.* It is the policy of NPT II that its officers, employees, agents, and other persons undertaking any activities on behalf of NPT II or its customers adhere strictly to the terms of this Act.

XX. Rights to Audit and Inspect

42. Each of the parties to this Agreement, and MDT and the other organizations designated in Paragraph No. 6(A), shall have the right to audit the disbursements of monies raised pursuant to and provided under this Agreement, including monies provided to each other or Minatom, or to designated third parties under contract or subcontract. Contracts, grants, and similar instruments shall be drafted so as to allow implementation of this paragraph. Each of the parties and Minatom agree to grant to the other, and MDT and the other organizations designated in Paragraph No. 6(A), during normal business hours and at their normal place of business, reasonable access to the books and records of transactions made under this Agreement for the purpose of such audits, which may occur no more than once annually for each auditing sponsor organization.
43. In addition to rights otherwise provided by this Agreement, MDT and the other organizations designated in Paragraph No. 6(A) shall have the right to reasonable access to and inspection of any site, materials, or facility with respect to which funds are provided under this Agreement.

XXI. Relationship

44. Nothing herein shall be construed to place the parties in a relationship of partners or joint venturers, nor does this Agreement make either party the agent or legal representative of the other party for any purpose whatsoever. The parties agree that no representation shall be made by either party that would create an apparent agency, employment, partnership, or joint venture. Neither party shall have the power, either express or implied, to obligate or bind the other party in any manner.

XXII. Counterparts

45. This Agreement may be executed in multiple, original counterparts in English and Russian, and all counterparts so executed shall constitute a single agreement binding on the parties, provided that if there are any differences between the English and Russian counterparts, the English version shall always be controlling.

IN WITNESS WHEREOF, the parties set forth their respective seals and signatures below.

NON-PROLIFERATION TRUST II

By: Daniel J. Murphy, Executive Chairman

MINISTRY OF ATOMIC ENERGY
OF THE RUSSIAN FEDERATION

By: *[MINATOM AGENT]*

WITNESSES / ATTEST:
[For the Russian Federation and the United States]

[N O T A R I E S]